PB83-127241

Regulations and Non-Regulatory Revisions to State Implementation Plan: Vermont

Atlantic Environmental Associates, Inc.
Waltham, MA

Prepared for

Environmental Protection Agency
Research Triangle Park, NC

Oct 81

U.S. Department of Commerce
National Technical Information Service
NTIS

United States
Environmental Protection
Agency

Office of Air Quality
Planning and Standards
Research Triangle Park NC 27711

EPA-450/2-81-065
July 1981

Air

PB83-127241

EPA

Regulations and Non-Regulatory Revisions to State Implementation Plan: Vermont

REPRODUCED BY
NATIONAL TECHNICAL
INFORMATION SERVICE
U.S. DEPARTMENT OF COMMERCE
SPRINGFIELD, VA 22161

EPA-450/2-81-065

Regulations and Non-Regulatory Revisions to State Implementation Plan: Vermont

By

Atlantic Environmental Associates, Inc.
59 Vernon Street
Waltham, MA 02154

Contract No. 68-02-3565

EPA Project Officer: Willis P. Beal

Prepared for

U.S ENVIRONMENTAL PROTECTION AGENCY
Control Programs Development Division
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

July 1981

TECHNICAL REPORT DATA
(Please read Instructions on the reverse before completing)

1. REPORT NO.	2.	3. RECIPIENT'S ACCESSION NO.
EPA-450/2-81-065		PB83 127241

4. TITLE AND SUBTITLE	5. REPORT DATE
Regulations and Non-Regulatory Revisions to State Implementation Plan: Vermont	October, 1981
	6. PERFORMING ORGANIZATION CODE
7. AUTHOR(S)	8. PERFORMING ORGANIZATION REPORT NO.
9. PERFORMING ORGANIZATION NAME AND ADDRESS	10. PROGRAM ELEMENT NO.
Atlantic Environmental Associates, Inc. 59 Vernon Street Waltham, MA 02154	11. CONTRACT/GRANT NO. 68-02-3565
12. SPONSORING AGENCY NAME AND ADDRESS	13. TYPE OF REPORT AND PERIOD COVERED
Control Programs Development Division Office of Air Quality Planning and Standards Research Triangle Park, NC 27711	14. SPONSORING AGENCY CODE

15. SUPPLEMENTARY NOTES

EPA Project Officer: Willis P. Beal

16. ABSTRACT

This document has been produced in compliance with Section 110(h) of the Clean Air Act, as amended in 1977, which mandates periodic publication of State Implementation Plan (SIP) requirements. The first section of the document comprises the Federally approved SIP regulations. It consists of the EPA-approved State and/or local air pollution control regulations cited by reference in the Federal Register; regulations promulgated as of August 1, 1981 have been included in this document.

The present compilation constitutes an update of a previous documentation of regulations as of July 1, 1979. State and/or local air quality regulations which have not been Federally approved as of August 1, 1981, are not included. However, any omissions of regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations. A summary sheet of the regulatory revisions is provided to give a quick historical assessment of the changes.

The second part of the document contains the text of non-regulatory SIP revisions approved by EPA up to August 1, 1981, excluding notices or certifications of public hearings and technical support data. A complete tabulation of these revisions is also provided.

17. KEY WORDS AND DOCUMENT ANALYSIS

a. DESCRIPTORS	b. IDENTIFIERS/OPEN ENDED TERMS	c. COSATI Field/Group
Air Pollution State Regulations State Implementation Plans		

18. DISTRIBUTION STATEMENT	19. SECURITY CLASS *(This Report)*	21. NO. OF PAGES
Release Unlimited	Unclassified	53
	20. SECURITY CLASS *(This page)*	22. PRICE
	Unclassified	

EPA Form 2220-1 (Rev. 4-77) PREVIOUS EDITION IS OBSOLETE

This report has been reviewed by the Control Programs Development Division of the Office of Air Quality Planning and Standards, EPA, and approved for publication. Mention of trade names or commercial products is not intended to constitute endorsement or recommendation for use. Copies of the entire document are available for inspection and copying at EPA Headquarters (401 M Street SW, Washington, DC 20460), EPA's Office of Air Quality Planning and Standards (Room 826, 411 West Chapel Hill Street, Durham, NC 27701), and the appropriate EPA Regional Offices. Documents containing only the regulatory portions of each State Implementation Plan may be ordered for a nominal fee from the National Technical Information Services, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

PREFACE

This document has been produced in compliance with Section 110(h) of the Clean Air Act, as amended in 1977, which mandates periodic publication of State Implementation Plan (SIP) requirements. The first section of the document comprises the Federally approved SIP regulations. It consists of the EPA approved State and/or local air pollution control regulations cited by reference in the Federal Register; all regulations Federally promulgated as of August 1, 1981 have been included.

The present compilation constitutes an update of a previous documentation of regulations as of July 1, 1979.* State and/or local air quality regulations which have not been Federally approved as of August 1, 1981 are not included. However, any omissions of regulations from this document in no way affects the ability of the respective Federal, State or local agencies to enforce such regulations.

This document is not intended to provide a tool for determining the enforceability of any given regulation. Rather, it is intended to provide a comprehensive compilation of those regulations which are incorporated by reference into Title 40, Part 52, of the Code of Federal Regulations (CFR). The exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation in this document does not, in itself, render the regulation enforceable by either the State or EPA.

The regulations have been organized in this document according to the official State/local agency format. However, since State air quality regulations vary widely in their organization, content, and language, a standardized subject index has been added. The index listings consist of both pollutant and activity oriented categories to facilitate usage. For example, regulations which apply to copper smelters may be found under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State are not included herein but can be found under Title 40 Code of Federal Regulations, Part 52.

Additionally, a summary sheet of the regulatory revisions is included to provide a quick historical assessment of the changes. These summary sheets contain the date of submittal to EPA of each revision and the Federal Register publication date on which the revision was approved by EPA. A brief description of the regulation which was submitted is also included.

In accordance with the Act, the second part of the document contains non-regulatory SIP revisions approved by EPA up to August 1, 1981. All approved non-regulatory revisions listed under Identification of Plan in the CFR are included except notices or certifications of public hearings, and technical support data. Non-regulatory submittals which have only received EPA approval on selected elements are included in their entirety with an accompanying indication of the status of Federal actions on the non-approved elements. The non-regulatory revisions have been organized in this document

---

* Regulations and Non-Regulatory Revisions to State Implementation Plan: Vermont, EPA-450/2-80-052, prepared under Contract 68-02-3388, July 31, 1980.

according to the date of publication of EPA approval in the Federal Register. For historical completeness, a complete tabulation of these revisions is provided at the beginning of this second section.

SUMMARY OF
EPA-APPROVED REGULATORY REVISIONS TO STATE OF VERMONT SIP
BETWEEN JULY 1, 1979 AND JULY 31, 1981

Publication of Approval	Submittal Date	Page	Document Description
01/30/80	03/21/79 11/21/79	45FR6784	Chapter 5 approvals and revisions.
02/19/80	03/21/79	45FR16781	A submittal in compliance with the 1977 Clean Air Act mandate, Sections 160-169 (Part C), Section 172 and 174, Chapter 5 Air Pollution Control.
02/19/80	11/21/79	45FR16781	Narrative and regulatory revisions to Vermont's original SIP submittal of March 21, 1979. (Chapter 5)

TABLE OF CONTENTS

STATE REGULATIONS

Revised Standard Subject Index	Section Number	Title	Page
(2.0)	351	Declaration of Policy and Purpose	1
(1.0)	352	Definitions	1
(2.0)	353	Agency and Board	2
(2.0)	354	Powers	2
(13.0)	355	Classification and Reporting	3
(2.0)	356	Additional Contaminant Control Measures	4
(2.0)	357	Inspections	4
(2.0)	358	Emission Control Requirements	5
(15.0)	359	Enforcement	5
(8.0)	360	Emergency Procedure	6
(5.0)	361	Variance	6
(16.0)	362	Hearings and Judicial Review	7
(9.0)	364	Local Air Pollution Control Programs	8
(2.0)	365	State and Federal Aid	8
(12.0)	366	Motor Vehicle Pollution	8
(15.0)	367	Penalties	9
(2.0)	368	Limitations	10
(2.0)	369	Exemption from Taxation	10
(2.0)	370	Construction With Other Laws	10
(2.0)	371	Exemption; Steam Locomotives and Engines	10

AGENCY OF ENVIRONMENTAL CONSERVATION

ENVIRONMENTAL PROTECTION REGULATIONS

Revised Standard Subject Index	Section Number	Title	Page
	CHAPTER 5		
	SUBCHAPTER I	Definitions	11
(1.0)	5-101	Definitions	11

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
	SUBCHAPTER II	Prohibitions	17
(51.13)	5-201	Open Burning Prohibited	17
(51.13)	5-202	Permissible Open Burning	17
(50.1.2)	5-211	Prohibition of Visible Air Contaminants	18
(51.21)	5-221	Prohibition of Pollution Potential Materials in Fuels	18
(50.1)	5-231	Prohibition of Particulate Matter	19
(50.6)	5-241	Prohibition of Nuisance and Odor	21
(50.3)	5-251	Control of Nitrogen Oxide Emissions	22
(50.2)	5-252	Control of Sulfur Dioxide Emissions	23
(50.4)	5-253	Control of Volatile Organic Compounds	23
	SUBCHAPTER III	Ambient Air Quality Standards	26
(2.0)	5-301	Scope	26
(50.2)	5-302	Sulfur Oxides (Sulfur Dioxide) - Primary Ambient Air Quality Standard	26
(4.2)	5-303	Sulfur Oxides (Sulfur Dioxide) - Secondary Ambient Air Quality Standard	26
(4.1)	5-304	Particulate Matter (Total Suspended Particulate) - Primary Ambient Air Quality Standard	26
(4.1)	5-305	Particulate Matter (Total Suspended Particulate) - Secondary Ambient Air Quality Standard	26
(4.5)	5-306	Carbon Monoxide - Primary and Secondary Ambient Air Quality Standards	27
(4.6)	5-307	Ozone - Primary and Secondary Ambient Air Quality Standards	27
	SUBCHAPTER IV	Operations and Procedures	28
(2.0)	5-401	Classification of Air Contaminant Sources	28
(13.0)	5-402	Written Reports When Requested	29
(2.0)	5-403	Circumvention	29
(9.0)	5-404	Methods for Sampling and Testing of Sources	29
(9.0)	5-405	Required Air Monitoring	30
(9.0)	5-406	Required Air Modeling	30

TABLE OF CONTENTS (Cont.)

Revised Standard Subject Index	Section Number	Title	Page
	SUBCHAPTER V		34
(2.0)	5-501	Review of Construction or Modification of New Air Contaminant Sources	34
(20.0)	5-502	Major Stationary Sources	35
	SUBCHAPTER VII		38
(2.0)	5-701	Removal of Control Devices	38
(12.0)	5-702	Excessive Smoke Emissions from Motor Vehicles	38
(2.0)	5-703	Effective Date	38

REVISED STANDARD SUBJECT INDEX

1.0 DEFINITIONS

2.0 GENERAL PROVISIONS AND ADMINISTRATIVE PROCEDURES

3.0 REGISTRATION CERTIFICATES, OPERATING PERMITS AND APPLICATIONS

4.0 AIR QUALITY STANDARDS (PRIMARY AND SECONDARY)

- 4.1 PARTICULATES
- 4.2 SULFUR DIOXIDE
- 4.3 NITRIC OXIDES
- 4.4 HYDROCARBONS
- 4.5 CARBON MONOXIDE
- 4.6 OXIDANTS
- 4.7 OTHERS

5.0 VARIANCES

6.0 COMPLIANCE SCHEDULES

7.0 EQUIPMENT MALFUNCTION AND MAINTENANCE

8.0 EMERGENCY EPISODES

9.0 AIR QUALITY SURVEILLANCE AND SOURCE TESTING

10.0 NEW SOURCE PERFORMANCE STANDARDS

11.0 NATIONAL EMISSIONS STANDARDS FOR HAZARDOUS AIR POLLUTANTS

12.0 MOTOR VEHICLE EMISSIONS AND CONTROLS

13.0 RECORD KEEPING AND REPORTING

14.0 PUBLIC AVAILABILITY OF DATA

15.0 LEGAL AUTHORITY AND ENFORCEMENT

16.0 HEARINGS, COMPLAINTS, AND INVESTIGATIONS

17.0 PREVENTION OF SIGNIFICANT DETERIORATION

18.0 AIR QUALITY MAINTENANCE AREA

19.0 EMISSION OFFSET POLICY

20.0 MAJOR STATIONARY SOURCES

21.0 - 49.0

RESERVED FOR FUTURE EXPANSION OF COMMON INDEX

50.0 POLLUTANT - SPECIFIC REGULATIONS

- 50.1 PARTICULATES

50.1.1 PROCESS WEIGHT

50.1.2 VISIBLE EMISSIONS

50.1.3 GENERAL

50.2 SULFUR COMPOUNDS

50.3 NITRIC OXIDES

50.4 VOLATILE ORGANIC COMPOUNDS

50.5 CARBON MONOXIDE

50.6 ODOROUS POLLUTANTS

50.7 OTHERS (Pb, Hg, etc.)

51.0 SOURCE CATEGORY SPECIFIC REGULATIONS

51.1 AGRICULTURAL PROCESSES (includes Grain Handling, Orchard Heaters, Rice and Soybean Facilities, Related Topics)

51.2 COAL OPERATIONS (includes Cleaning, Preparation, Coal Refuse Disposal Areas, Coke Ovens, Charcoal Kilns, Related Topics)

51.3 CONSTRUCTION (includes Cement Plants, Materials Handling, Topics Related to Construction Industry)

51.4 FERROUS FOUNDRIES (includes Blast Furnaces, Related Topics)

51.5 FUEL BURNING EQUIPMENT (coal, natural gas, oil) - Particulates (includes Fuel Content and Other Related Topics)

51.6 FUEL BURNING EQUIPMENT (coal, natural gas, oil) - SO_2 (includes Fuel Content and Other Related Topics)

51.7 FUEL BURNING EQUIPMENT (oil, natural gas, coal) - NO_2 (includes Fuel Content and Other Related Topics)

51.8 HOT MIX ASPHALT PLANTS

51.9 INCINERATION

51.10 NITRIC ACID PLANTS

51.11 NON-FERROUS SMELTERS (Zn, Cu, etc.) - Sulfur Dioxide

51.12 NUCLEAR ENERGY FACILITIES (includes Related Topic)

51.13 OPEN BURNING (includes Forest Management, Forest Fire, Fire Fighting Practice, Agricultural Burning and Related Topics)

51.14 PAPER PULP; WOOD PULP AND KRAFT MILLS (includes Related Topics)

51.15 PETROLEUM REFINERIES

51.16 PETROLEUM STORAGE (includes Loading, Unloading, Handling and Related Topics)

51.17 SECONDARY METAL OPERATIONS (includes Aluminum, Steel and Related Topics)

51.18 SULFURIC ACID PLANTS

51.19 SULFURIC RECOVERY OPERATIONS

51.20 WOOD WASTE BURNERS

51.21 MISCELLANEOUS TOPICS

51.22 COATING OPERATIONS (Can, Coil, Paper, Fabric, Vinyl, Metal, Wire, Surface Coating)

51.23 CUTBACK ASPHALT

51.24 SOLVENT METAL CLEANING

AIR POLLUTION CONTROL
Title 10 Vermont Statutes Annotated
Chapter 15 Nos. 351-370

Sec. 351. Declaration of policy and purpose

(a) It is hereby declared to be the public policy of this state and the purpose of this chapter to achieve and maintain such levels of air quality as will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state and facilitate the enjoyment of the natural attractions of this state.

(b) It is also declared that local and regional air pollution control programs are to be supported to the extent practicable as essential instruments for the securing and maintenance of appropriate levels of air quality.

(c) To these ends it is the purpose of this chapter to provide for a coordinated statewide program of air pollution prevention, abatement and control, for an appropriate distribution of responsibilities among the state and local units of government, and to facilitate cooperation across jurisdictional lines in dealing with problems of air pollution not confined within single jurisdictions, and to provide a framework within which all values may be balanced in the public interest.

Sec. 352. Definitions
As used in this chapter:

(1) "Agency" means the agency of environmental conservation.

(2) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more contaminants in such quantities and duration as is or tends to be injurious to human health or welfare, animal or plant life, or property; in accordance with the establishment of ambient air quality standards for the state as a whole or any part thereof, based on nationally recognized criteria applicable to the State of Vermont.

(4) "Board" means the air quality variance board.

(5) "Emission" means a release into the outdoor atmosphere of air contaminants.

(6) "Person" shall mean an individual, partnership, corporation, association, unincorporated organization, trust or any other legal of commercial entity, including a joint venture or affiliated ownership. The word "person" also means a municipality or state agency.

(7) "Secretary" means the secretary of the agency of environmental conservation or such person as the secretary may designate.

Sec. 353. Agency and Board

(a) The agency is designated as the air pollution control agency for the state. The secretary or his duly designated representative, within the agency, shall perform the functions vested in the agency, as specified in the following sections of this chapter.

(b) An air quality variance board shall be appointed by the Governor, with the advice and consent of the Senate. The board shall consist of five members, none of whom is otherwise employed by the State. The board shall consist of a lawyer, a manufacturer, a professional engineer, a businessman and a member representing the public at large. The Governor shall designate the Chairman. The terms of office shall be five years except that the initial members shall be appointed so that the term of one member shall expire in each of the succeeding five years.

Sec. 354. Powers

In addition to any other powers conferred on it by law the (Secretary) shall have power to:

(1) Appoint and employ personnel and consultants as may be necessary for the administration of this chapter.

(2) Adopt, amend and repeal rules, implementing the provisions of this chapter.

(3) Hold hearings related to any aspect of or matter in the administration of this chapter, and in connection therewith, subpoena witnesses and the production of evidence.

(4) Issue orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial proceedings.

(5) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution in this state.

(6) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this chapter.

(7) Encourage local units of government to handle air pollution problems within their respective jurisdiction, and by compact on a cooperative basis, and to provide technical and consultative assistance therefor.

(8) Encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control.

(9) Determine by appropriate means the degree of air contamination and air pollution in the state and the several parts thereof.

(10) Make a continuing study of the effects of the emission of air contaminants from motor vehicles on the quality of the outdoor atmosphere of this state and the several parts thereof, and make recommendations to appropriate public and private bodies with respect thereto.

(11) Establish ambient air quality standards for the state as a whole or for any part thereof, based on nationally recognized criteria applicable to the State of Vermont.

(12) Collect and disseminate information and conduct educational and training programs relating to air contamination and air pollution.

(13) Advise, consult, contract and cooperate with other agencies of the state, local governments, industries, other states, interstate or interlocal agencies, and the federal government, and with interested persons or groups.

(14) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system, for the control thereof, concerning the efficacy of the device or system, or the air pollution problem which may be related to the source, device or system. Nothing in any consultation shall be construed to relieve a person from compliance with this chapter, rules in force pursuant thereto, or any other provision of law.

(15) Accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, for the purpose of carrying out any of the functions of this chapter. The funds received by the Secretary pursuant to this section shall be deposited in the state treasury to the account of the Secretary.

(16) Have access to records relating to emissions which cause or contribute to air contamination.

Sec. 355. Classification and reporting

(a) The Secretary, by rule, may classify air contaminant sources which in its judgment may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which relate to air pollution, and may require reporting by any class. Classifications made pursuant to this subsection may apply to the state as a whole or to any designated area of the state, and shall be made with special reference to effects on health, economic and social factors, and physical effects on property.

(b) Any person operating or responsible for the operation of air contaminant sources of any class for which the rules of the Secretary require reporting shall make reports containing information as required by the Secretary concerning location, size and height of contaminant outlets, processes employed, fuels used and the nature and time periods of duration of emissions, and such other information relevant to air pollution and available or reasonably capable of being assembled.

Sec. 356. Additional contaminant control measures

(a) The Secretary may require that notice be given to it prior to the undertaking of the construction or installation of particular types or classes of new air contaminant sources specified in its rules and regulations. Within fifteen days of its receipt of the notice, the Secretary may require, as a condition precedent to the construction or installation or establishment of the air pollution source or sources covered thereby, the submission of plans, specifications, and other information as it deems necessary in order to determine whether the proposed construction or installation will be in accord with applicable rules in force pursuant to this chapter. Within thirty days of the receipt of plans, specifications or other information required pursuant to this section the Secretary shall determine if the proposed construction or installation is in accord with the requirements of this chapter or applicable rules and shall issue an order approving or prohibiting the construction or installation or establishment of the air contaminant source or sources, or give approval upon fulfillment of specified conditions. Failure of such an order to issue within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted.

(b) In addition to other remedies available on account of the issuance of an order prohibiting construction or installation and prior to invoking any remedies, the person or persons aggrieved thereby shall, upon request in accordance with rules of the Secretary be entitled to a hearing on the order. Following such hearing, the order may be affirmed, modified or withdrawn.

(c) For the purposes of this chapter, addition to or enlargement or replacement of an air contaminant source, or any major alteration therein, shall be construed as construction or installation of a new air contaminant source.

(d) All facilities or parts thereof called for by plans, specifications or other information submitted pursuant to subsection (a) of this section shall be maintained in good working order.

(e) Nothing in this section shall be construed to authorize the Secretary to require the use of a facility available only from a particular supplier or produced by a particular manufacturer.

(f) The absence or failure to issue a rule or order pursuant to this section shall not relieve any person from compliance with any emission control requirements or with any other provision of law.

Sec. 357. Inspections

Any duly authorized officer, employee, or representative of the Secretary many enter and inspect any property, premise or place on or at which an air contaminant source is located or is being constructed or installed at any reasonable time for the purpose of ascertaining the state

of compliance with this chapter and rules in force pursuant thereto. No authorized person shall refuse entry or access to any authorized representative of the Secretary who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper or interfere with the inspection. If requested, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

Sec. 358. Emission control requirements

The Secretary may establish such emission control requirements, by rule, as in its judgment may be necessary to prevent, abate, or control air pollution. The requirements may be for the state as a whole or may vary from area to area, as may be appropriate to facilitate accomplishment of the purposes of this chapter, and in order to take necessary or desirable account of varying local conditions.

Sec. 359. Enforcement

(a) Whenever the Secretary has reason to believe that a violation of any provision of this chapter or rule pursuant thereto has occurred, it may cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this chapter or rule alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. The order shall become final unless, no later than thirty days after the date the notice and order are served, the person or persons named therein request in writing a hearing before the Secretary. Upon receipt of the request, the Secretary shall hold a hearing. In lieu of an order, the Secretary may require that the alleged violator or violators appear before the Secretary for a hearing at a time and place specified in the notice and answer the charges complained of, or the Secretary may initiate action pursuant to section 367 of this title.

(b) If, after a hearing held pursuant to subsection (a) of this section, the Secretary finds that a violation or violations have occurred, it shall affirm or modify its order previously issued, or issue an appropriate order or orders for the prevention, abatement or control of the emissions involved or for the taking of such other corrective action as may be appropriate. If, after hearing on an order contained in a notice the Secretary finds that no violation is occurring, it shall rescind the order. Any order issued as part of a notice or after hearing may prescribe a time schedule for necessary action in preventing, abating or controlling the emissions.

(c) Nothing in this chapter shall prevent the Secretary from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

(d) In connection with any hearing held pursuant to this section, the Secretary shall have power and upon application by any party it shall have the duty to subpoena witnesses and the production of evidence on behalf of all parties.

Sec. 360. Emergency procedure

(a) Any other provisions of law to the contrary notwithstanding, if the Secretary finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, with the concurrence of the Governor, the Secretary shall order persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants and such order shall fix a place and time not later than twenty-four hours thereafter for a hearing to be held before the Director. Not more than twenty-four hours after commencement of such a hearing and without adjournment thereof, the director shall affirm, modify or set aside the order.

(b) In the absence of a generalized condition of air pollution of the type referred to in subsection (a) of this section, if the Secretary finds that emissions from the operation of one or more air contaminant sources is causing the imminent danger to human health or safety, the Director of Industrial Hygiene may order the person or persons responsible for the operation or operations in question to reduce or discontinue emissions immediately, without regard to the provisions of section 359 of this title. In that event, the requirements for hearing and affirmance, modification or setting aside of orders set forth in subsections 359 (a) and 359 (b) shall apply.

(c) Nothing in this section shall be construed to limit any power which the Governor or any other officer may have to declare an emergency and act on the basis of such declaration.

Sec. 361. Variance

(a) A person who owns or is in control of any plant, building, structure, process or equipment may apply to the Secretary for a variance from its rules. The Secretary may grant a variance if it finds that:

(1) The emissions occurring or proposed to occur do not endanger or tend to endanger human health or safety.

(2) Compliance with the rules from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(b) No variance shall be granted pursuant to this section except after public hearing on due notice and until the Secretary has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public.

(c) Any variance or renewal thereof shall be granted within the requirements of subsection (a) of this section and for time periods and under conditions consistent with the reasons therefore, and within the following limitations:

(1) If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the air pollution involved, it shall be only until the necessary practicable means for prevention, abatement or control become

known and available, and subject to the taking of any substitute or alternate measures that the Secretary may prescribe.

(2) If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time as, in the view of the Secretary is requisite for the taking of the necessary measures. A variance granted on the ground specified herein shall contain a time schedule for the taking of action in an expeditious manner and shall be conditioned on adherence to the time schedule.

(3) If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in items 1 and 2 of this subparagraph, it shall be for not more than one year.

(d) Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Secretary on account of the variance, no renewal thereof shall be granted, unless following public hearing on the complaint on due notice, the Secretary finds that renewal is justified. No renewal shall be granted except on application therefor. The application shall be made at least sixty days prior to the expiration of the variance. Immediately upon receipt of an application for renewal the Secretary shall give public notice of the application in accordance with rules of the Secretary.

(e) A variance or renewal shall not be a right of the applicant or holder thereof but shall be in the discretion of the Secretary. However, any person adversely affected by a variance of renewal granted by the Secretary may obtain judicial review thereof by a proceeding in the appropriate court.

(f) Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of section 360 of this chapter to any person or his property.

Sec. 362. Hearings and judicial review

(a) No rule or regulation and no amendment or repeal thereof shall take effect except after public hearing. The Secretary shall appoint a time and place for the hearing and shall order the publication of the substance thereof and of the time and place of hearing two weeks successively in the daily newspapers of the state, the last publication to be at least seven days before the day appointed for the hearing.

(b) Nothing in this section shall be construed to require a hearing before issuance of an emergency order pursuant to section 360 of this chapter.

(c) Any person aggrieved by any order of the Secretary may have judicial review thereof by appeal under Section 2382 of title 12 within thirty days of the date of the order.

Sec. 364. Local air pollution control programs

(a) A municipality may establish and thereafter administer within its jurisdiction an air pollution control program which:

(1) Provides by ordinance or local law for requirements compatible with, or stricter or more extensive than those imposed by sections 358, 360, and 361 of this chapter and regulations issued thereunder;

(2) Provides for the enforcement of such requirements by appropriate administrative and judicial process;

(3) Provides for administrative organizations, staff, financial, and other resources necessary to effectively and efficiently carry out its program; and

(4) Is approved by the Secretary as adequate to meet the requirements of this chapter and any applicable rules and regulations pursuant thereto.

(b) A municipality may administer all or part of its air pollution control program in a compact if the program meets the requirements of subsection (a) of this section.

(c) If an approved local air pollution authority so petitions and the Secretary finds that the control of a particular class of air contaminant source because of its complexity or magnitude is beyond the reasonable capability of the local air pollution control authorities or may be more efficiently and economically performed at the state level, it may assume and retain jurisdiction over that class of air contaminant source. Classifications pursuant to this paragraph may be either on the basis of the nature of the sources involved or on the basis of their relationship to the size of the communities in which they are located.

(d) Nothing in this chapter shall be construed to supersede or oust the jurisdiction of any local air pollution control program in operation on July 1, 1968; provided that within two years from such date any such program shall meet all requirements of this chapter for a local air pollution control program. Any approval required from the Secretary shall be deemed granted unless the Secretary takes specific action to the contrary.

Sec. 365. State and federal aid

Local air pollution control agencies established or approved pursuant to this chapter may make application for, receive, administer and expend federal funds for the control of air pollution or the development and administration of programs related to air pollution control, provided the application is first submitted to and approved by the State Board of Health. The State Board of Health shall approve the application if it is consistent with this chapter and any other applicable requirements of law.

Sec. 366. Motor vehicle pollution

(a) The Secretary in conjunction with the motor vehicle department

may provide rules for the control of emissions from motor vehicles. Such rules may prescribe requirements for the installation and use of equipment designed to reduce or eliminate emissions and for the proper maintenance of the equipment and the vehicles. Rules pursuant to this section shall be consistent with provisions of federal law, if any, relating to control of emissions from the vehicles concerned and shall not require, as a condition precedent to the initial sale of a vehicle or vehicular equipment, the inspection, certification or other approval of any feature or equipment designed for the control of emissions from motor vehicles, if the feature or equipment has been certified, approved, or otherwise authorized pursuant to federal law.

(b) Except as permitted or authorized by law, no person shall fail to maintain in good working order or remove, dismantle or otherwise cause to be inoperative any equipment or feature constituting an operational element of the air pollution control system or mechanism of a motor vehicle and required by rules pursuant to this chapter to be maintained in or on the vehicle. Any failure to maintain in good working order or removal, dismantling or causing of inoperability shall subject the owner or operator to suspension or cancellation of the registration for the vehicle by the motor vehicle department. The vehicle shall not thereafter be eligible for registration until all parts and equipment constituting operational elements of the motor vehicle have been restored, replaced or repaired and are in good working order.

(c) The Secretary shall consult with the motor vehicle department and furnish it with technical information, including testing techniques, standards and instructions for emission control features and equipment.

(d) When rules have been issued requiring the maintenance of features or equipment in or on motor vehicles for the purpose of controlling emissions therefrom, no motor vehicle shall be issued an inspection sticker unless all required features or equipment have been inspected in accordance with the standards, testing techniques and instructions furnished pursuant to subsection (b) hereof and has been found to meet those standards.

(e) The remedies and penalties provided here apply to violations of section 366 and provision of section 367 of this title shall not apply.

(f) As used in this section "motor vehicle" shall have the same meaning as defined in section 4 of title 23.

Sec. 367. Penalties

Any person who violates a provision of this chapter, except sections 353 and 356 or any rule shall be fined not to exceed $2,000.00.

In the event such violation is of any of the terms and conditions of an order of the Secretary issued under section 359 of this chapter, the expiration of each 30-day period after the expiration of the reasonable time specified in that order during which corrective action must be taken shall constitute a separate violation under this section. In the event such violation is of any of the terms and conditions of an order of the

Secretary issued under section 360 of this title, the expiration of each five-day period after the effective date of that order shall constitute a separate violation under this section.

Sec. 368. Limitations

Nothing in this chapter shall be construed to:

(a) Affect the relations between employers and employees with respect to or arising out of any condition of air contaminaiton or air pollution.

(b) Supersede or limit the applicability of any law or ordinance relating to sanitation, industrial health or safety.

(c) Grant to the director any jurisdiction or authority with respect to air contamination existing solely within commercial and industrial plants, works or shops or private property appurtenant thereto.

Sec. 369. Exemption from taxation

Approved air pollution treatment facilities shall be exempted from real and personal property taxation in the same manner provided tax exemption of water treatment facilities under the provisions of section 3802 of title 32.

Sec. 370. Construction with other laws

When a person as defined in section 352, subsection 4, is required to abate a source of air pollution existing at the date of passage of this chapter and to concurrently abate a source of water pollution in accord with any existing Vermont water resources board's classification order document issued pursuant to sections 902-908 of title 10, water pollution control, the Secretary, the Vermont water resources board and the person or their designated representatives shall meet and establish a properly coordinated program for the abatement of air and water pollution sources concurrently or in sequence. Such program shall specify a reasonable time within which facilities for abatement shall be in use, having regard for the rights and interests of the general public, and reasonableness and equity of the cost of installation of the pollution abatement devices. New sources of air pollution notwithstanding are subject to abatement.

Sec. 371. Exemption; steam locomotives and engines

The provisions of this chapter shall not apply to any steam locomotives, engines and rolling stock used in connection with the operation of a railroad within the state.

AGENCY OF ENVIRONMENTAL CONSERVATION

Montpelier, Vermont

ENVIRONMENTAL PROTECTION
REGULATIONS

CHAPTER 5

AIR POLLUTION CONTROL

Subchapter I. Definitions

5-101 AS USED IN THIS PART, ALL TERMS NOT DEFINED HEREIN SHALL HAVE THE MEANING GIVEN THEM IN THE ACT.

1. "Act" refers to the Air Pollution Control Act, 10 V.S.A., § 551 et seq., as amended.

2. "Agency" means the Agency of Environmental Conservation.

3. "Air Contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof.

4. "Air Pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities, and duration as is or tends to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life, or property, in accordance with the establishment of ambient air quality standards for the state as a whole or any part thereof, based on nationally recognized criteria applicable to the State of Vermont.

5. "Air Pollution Control Officer" means the person whose functional responsibility is to direct and coordinate the air pollution control activities and program for the State.

6. "Allowable Emissions" means the emission rate calculated using the maximum rated capacity of the source and, if appropriate, either:

(a) The applicable emission standard contained in these regulations, if any, or

(b) The emission rate or design, operational or equipment standard specified in any order or agreement issued under these regulations.

7. "Ambient Air Quality Standards" means any standard which establishes the largest allowable concentration of a specific air contaminant in the ambient air space.

8. "Ambient Air Space" means the unconfined space occupied by the atmosphere above the geographic area of the State of Vermont.

9. "Attainment Area" (see definition of nonattainment area)

10. "CFR" means the Code of Federal Regulations.

11. "Combustion Contaminants" are particulate matter discharged into the atmosphere from the burning of any kind of material containing carbon in a free or combined state.

12. "Commence Operation" means to begin using, on a full time basis, any equipment in a manner that represents normal operational procedures.

14. "Emission" means a release of air contaminants into the ambient air space.

15. "Equivalent Method" means any method of sampling and/or analyzing for an air contaminant which has been demonstrated to the Air Pollution Control Officer's satisfaction to have a consistent and quantitatively known relationship to a reference method under specific conditions.

16. "Flue Gas" means combustion contaminants which enter the ambient air space through a flue or stack.

17. "Forest Land Area" means at least 25 acres of land that is at least 10% stocked with trees of any size.

18. "Fossil Fuel" means coal, coke, distillate oil, residual oil, and natural gas.

19. "Fuel" - any form of combustible matter--solid, liquid or gas, including combustible refuse.

20. "Fuel - Burning Equipment" means any individual furnace, boiler, and/or apparatus, used in the process of burning fuel for the primary purpose of producing heat or power.

21. "Fugitive Particulate Matter" means any particulate matter generated by a process operation which is emitted into the ambient air space from points other than a stack.

22. "Garbage"--waste resulting from distribution, preparation and serving of food.

23. "Gaseous Matter" is any material that exists in the gaseous state at standard conditions.

25. "Hearing Officer" means an employee or representative of the Agency appointed by the Secretary to hear any or all matters in any case properly before the Secretary under Subchapter VI of these regulations.

26. "Heat Input" shall be the aggregate heat content of all fuels introduced into any fuel burning equipment. For the purposes of review of the construction or installation of an air contaminant source, the heat input value used shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater.

27. "Horsepower (H.P.)" is a unit that is equal to 10 square feet of boiler heating surface.

28. "Incinerator" is any structure or furnace in which combustion takes place, the primary purpose of which is the reduction in volume and weight of an unwanted material.

31. "Major Stationary Source" means any stationary source or modification to a stationary source which increases the allowable emission rate of any air contaminant by an amount equal to or greater than 50 tons per year, 1,000 pounds per day, or 100 pounds per hour, whichever is more restrictive.

32. "Modification" means any physical change in, or change in the method of operation of, a stationary source which increases the emission rate of any air contaminant, regardless of any emission reductions achieved elsewhere in the source, except that routine maintenance, repair and replacement shall not be considered physical changes.

33. "Motor Vehicle" shall include all vehicles propelled or drawn by power other than muscular power, except tractors used entirely for work on the farm, vehicles running only on stationary rails or tracks, motorized highway building equipment and road making appliances.

34. "Multiple Chamber Incinerator" is any article, machine, equipment, contrivance, structure, or part of a structure used to dispose of combustible refuse by burning, consisting of three or more refractory lined combustion furnaces in series, physically separated by refractory walls interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned.

35. "Natural Wood"--for the purposes of these regulations, natural wood means trees, including logs, boles, trunks, branches, limbs, and stumps, lumber including timber, logs or slabs, especially when dressed for use. This definition shall also include pallets which are used for the shipment of various materials so long as such pallets are not chemically treated with any preservative, paint, or oil. This definition shall not extend to materials which have resulted from the demolition of any building, or to other wood products such as sawdust.

36. "Nonattainment Area" means, for any air contaminant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Secretary to be reliable) to exceed any applicable ambient air quality standard for such contaminant. "Attainment area" means all other areas, except those areas for which there is not sufficient data to allow classification ("unclassified areas").

37. "Odor" means that property of gaseous, liquid, or solid materials that elicits a physiologic response by the human sense of smell.

38. "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

39. "Open Burning"--the burning of any type of combustible material in the open where the products of combustion are emitted directly into the ambient air space without passing through a stack, chimney, or other enclosure. Burning shall include ignition, permitting or causing ignition and suffering, allowing or maintaining burning.

41. "Particulate Matter" is any material, except uncombined water, that exists in a finely divided form as a liquid or solid at standard conditions.

42. "Party" means any person named or admitted as a party under the Act or Subchapter VI of these regulations, or properly seeking and entitled as of right to be admitted as a party thereunder.

43. "Pathological Waste"--human and animal remains consisting of carcasses, organic and solid organic waste.

44. "Person" means any individual, or group of individuals organized for fraternal or any other purpose, partnership, firm, association, municipality, public or private corporation, state agency or subdivision of the state, or any other legal entity.

45. "Prevention of Significant Deterioration (PSD)" means the protection of the public health and welfare from any actual or potential adverse effect which in the Secretary's judgment may reasonably be anticipated to occur from air pollution which would deteriorate air quality in any portion of the State where existing air quality is better than the ambient air quality standards.

46. "Process Unit" refers to a unique and/or distinct part of the total process, where raw or partially processed materials undergo a chemical or physical change which generates air contaminants. Within any process unit when any material undergoes a series of operations which are capable of emitting particulate matter and which employ any combination of machines, equipment, or other devices used for processing the material either continuously or in batches, the total process weight for the series of operations shall be the weight of materials introduced to the series as a whole. Any material which is the product of any operation in the series shall not be counted as part of the process weight for any other operation in the series.

47. "Process Weight" is the total weight of all materials introduced into any process unit which may cause discharge into the ambient air space of particulate matter. Solid fuels charged will be considered as part of the process weight, but liquid and gaseous fuels and combustion air will not. "THE PROCESS WEIGHT PER HOUR" will be derived by dividing the total process weight by the number of hours in a complete operation from beginning of any given process to the completion thereof, excluding any time during which the equipment is idle.

48. "Public Notice"--notice given to the public by prominent advertisement in the State announcing the date(s), time(s), and place(s) of public hearings as required in the Code of Federal Regulations, CFR Title 40, Part 51.4. Notice shall be given at least 30 days prior to the date of such hearings.

49. "Reconstructed Source" means a source wherein the fixed capital cost of the new components exceeds 50 percent of the fixed capital costs of a comparable entirely new source. A reconstructed source will be treated as a new source for the purposes of these regulations.

50. "Refuse"--garbage, rubbish, and mixed municipal wastes.

51. "Respondent" means any adverse party in a case or enforcement action under these regulations.

52. "Ringelmann Chart"--the chart published and described in U.S. Bureau of Mines Information Circular 8333 (May, 1967), and on which are illustrated graduated shades of grey for use in estimating the light obscuring capacity of smoke.

53. "Rubbish"--solids or liquids not considered to be highly flammable or explosive, such as, but not limited to, paper, rags, ashes, leaves, tree branches, yard trimmings, furniture, tin cans, glass, crockery, demolition wastes, junk automobiles, tires, automotive parts, (paints, oils,) and other similar materials.

54. "Secretary" means the Secretary of the Agency of Environmental Conservation or such person as the Secretary may designate.

55. "Smoke" means the visible aerosol, resulting from incomplete combustion, which contains fly ash and/or other combustion contaminants, excluding condensed water vapor.

56. "Stack" means any chimney, flue, conduit, or duct arranged to conduct emissions to the ambient air.

57. "Standard Conditions" means a temperature of 20°C (68°F) and a pressure of 760 mm (29.92 in.) of Hg.

58. "Stationary Source" means any structure, building, facility, equipment, installation, or operation (or combination thereof) which emits or may emit any air contaminant, which is located on one or more contiguous or adjacent properties and which is owned or operated by the same person (or by persons under common control).

60. "True Vapor Pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from Floating Roof Tanks," 1962.

62. "Volatile Organic Compound (VOC)" means any compound of carbon that has a vapor pressure greater than 0.1 millimeters of mercury at standard conditions excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate. For the purposes of these regulations, methane and ethane are not considered as volatile organic compounds.

63. "Wood Fuel" for the purposes of these regulations means natural wood, as well as, sawdust or other wood waste generated by wood processing operations.

SUBCHAPTER II. PROHIBITIONS

5-201 OPEN BURNING PROHIBITED

1. No person shall engage in any open burning except in conformity with the provisions of Section 5-202.

2. No person shall cause, suffer, allow or permit tires, inner tubes, or any portion thereof, to be burned in the ambient air space of any area or place for any reason.

5-202 PERMISSIBLE OPEN BURNING

When not prohibited by local ordinances or officials having jurisdiction such as local, state or federal fire wardens or other fire prevention officials, the following types of burning are permissible, provided no public or private nuisance is created.

1. Fires in conjunction with holiday and festive celebrations.

2. Campfires, outdoor grills, and fireplaces for recreation or preparing food.

3. Burning of solid or liquid fuels or structures for the purpose of bona fide instruction and training of municipal, volunteer, and industrial firefighters in the methods of fighting fires when conducted under the direct control and supervision of qualified instructors. Said firefighters shall be residents of the State of Vermont or affiliated with the mutual aid systems within the State of Vermont.

4. Burning in forest land areas of brush, tree cuttings and slash where the cuttings accrue from pulping or lumbering operations.

5. On premise burning for the purpose of weed abatement; disease, forest fire and pest prevention; and agricultural improvement.

6. On premise burning of leaves, brush, deadwood, tree cuttings accrued from normal property maintenance by the owner, or lessee thereof.

7. Backyard burning of combustible domestic rubbish, except garbage, where no municipal collection service is available. This provision applies only to on-premise burning of combustible materials, except garbage, in a backyard waste burner having a capacity of 0.23 cubic meters (8.0 cubic feet) or less and serving a building containing four (4) or less dwelling units.

8. Open burning in remote areas, as follows, if prior approval in writing is obtained from the Air Pollution Control Officer.

a. Highly explosive or other dangerous, or unusual materials for which there is no other feasible method of disposal.

b. Burning of combustible construction material resulting from the demolition of buildings and other structures, brush, tree trunks and the like, originating from within the state.

c. Other combustible materials for which there is no other feasible method of disposal.

5-211 PROHIBITION OF VISIBLE AIR CONTAMINANTS

1. Installations Constructed prior to April 30, 1970

No person shall cause, suffer, allow or permit the emission of any air contaminant for more than a period or periods aggregating six (6) minutes in any hour, which has a shade, or density, greater than 40% opacity (No. 2 of the Ringelmann Chart).

At no time shall the visible air contaminants have a shade, density, or appearance greater than 60% opacity (No. 3 of the Ringelmann Chart).

2. Installations Constructed Subsequent to April 30, 1970

No person shall cause, suffer, allow or permit the emission of any visible air contaminant, from installations constructed after the effective date of these regulations for more than a period or periods aggregating six (6) minutes in any hour, which has a shade, or density, greater than 20% opacity (No. 1 of the Ringelmann Chart).

At no time shall the visible air contaminant have a shade, density or appearance greater than 60% opacity (No. 3 of the Ringelmann Chart).

5-221 PROHIBITION OF POLLUTION POTENTIAL MATERIALS IN FUELS.

1. Sulfur Limitation in Fuel

a. No person shall cause or permit the use, purchase, or sale for use in stationary combustion installations within the State of Vermont for heat or power generation, fuels containing more sulfur, percentage by weight, than specified in the table below:

By October 1, 1971, not more than 2.2% sulfur by weight.
By October 1, 1972, not more than 1.5% sulfur by weight.
By October 1, 1974, not more than 1.0% sulfur by weight.

b. Subsection 1.a. of this section shall not apply where compounds of sulfur are removed from the flue gas to the extent that the emissions of compounds of sulfur to the ambient air space are no greater than that which would be emitted under subsection 1.a. hereof. Emissions testing shall be required to demonstrate that the sulfur compounds emitted have been adequately reduced.

5-231 PROHIBITION OF PARTICULATE MATTER

1. Industrial Process Emissions

a. No person shall discharge, cause, suffer, allow, or permit in any one hour from any stack whatsoever particulate matter in excess of the amount shown in Table 1. For purposes of this regulation the total process weight entering a process unit shall be used to determine the maximum allowable emissions of particulate matter which may pass through the stack associated with the process unit. When two or more process units exhaust through a common stack, the combined process weight of all of the process units, served by the common stack, shall be used to determine the allowable particulate emission rate.

b. In cases where process weight is not applicable as determined by the Air Pollution Control Officer, the concentration of solid particulates in the effluent gas stream shall not exceed 0.14 grams per cubic meter (0.06 grains per cubic foot) of undiluted exhaust gas at standard conditions on a dry basis. In the case of wood processing operations, process weight is not applicable and, instead, the concentration standard specified in this subsection shall apply.

2. Incinerator Emissions

a. A person shall not discharge, cause, suffer, allow, or permit the emission of particulate matter into the ambient air space from any incinerator with a designed charging rate of less than 45.36 metric tons (50 tons) per day, to exceed 0.05 kilograms (0.10 pounds) per 45.36 kilograms (100 pounds) of refuse burnt. All incinerators built and installed after July 1, 1971, shall be multiple chamber incinerators or equipment found by the Air Pollution Control Officer, in advance of such use, to be equally effective for the purpose of air pollution control as an approved multiple chamber incinerator. The responsibility for showing that the equipment other than a multiple chamber incinerator is in compliance with the emission limits of this subsection shall be on the person seeking to come within the provisions of this subsection.

b. Any incinerators with a designed charging rate of 45.36 metric tons (50 tons) per day or more shall be operated in such a manner that emissions of particulate matter shall not exceed 0.183 grams per dry standard cubic meter (0.08 grain per dry standard cubic foot) corrected to 12 percent carbon monoxide.

c. No incinerator with a capacity of less than 226.80 kilograms (500 pounds) per hour of refuse burnt shall be built or installed, except incinerators used exclusively for the destruction of pathological waste, unless substantial operating data is available to demonstrate compliance with the emission standards above when the proposed incinerator is utilizing similar wastes and conditions to the proposed installation.

d. Any incinerator which is designed or operated primarily for the purpose of producing heat or power may be designated as fuel burning equipment by the Air Pollution Control Officer. An incinerator so designated shall be subject to the emissions limitations set forth in subsection 3.a. of this section, concerning combustion contaminants.

3. Combustion Contaminants

a. A person shall not discharge, cause, suffer, allow, or permit the emission of particulate matter caused by the combustion of fossil fuel in fuel burning equipment from any stack or chimney.

(1) in excess of 900 milligrams per hour per million calories (0.5 pounds per hour per million BTU's) of heat input in combustion installations where the heat input is rated at 2.52 million kilogram calories (10 million BTU's) or less per hour.

(2) in excess of allowable particulate emissions limitations as determined by Figure 1 for combustion installations where the heat input is greater than 2.52 million kilogram calories (10 million BTU's) per hour, but where the heat input is less than 63 million kilogram calories (250 million BTU's) per hour.

(3) in excess of 180 milligrams per hour per million calories (0.1 pounds per hour per million BTU's) of heat input in installations where the heat input is rated greater than 63 million kilogram calories (250 million BTU's) per hour.

(4) in excess of 110 milligrams per hour per million calories (0.06 pounds per hour per million BTU's) of heat input in installations constructed after July 1, 1971 where the heat input is rated greater than 252 million kilogram calories (1000 million BTU's) per hour.

b. Reserved (for wood-fired boilers)

c. The emission standards in this regulation apply to installations in which fuel is burned for the primary purpose of producing steam, hot water, hot air or other liquids, gases, or solids, and in the course of doing so, the products of combustion do not come into direct contact with the process material. Fuel includes coal, coke, lignite, fuel oil, wood, and combustible refuse. When any product or by-products of a manufacturing process are burned for said purpose, or in conjunction with any fuel, the emission standards above shall apply.

4. Potentially Hazardous Particulate Matter

Persons responsible for a source operation from which hazardous particulate matter may be emitted such as, but not limited to, lead, silica, asbestos, mercury, vinyl chloride, beryllium and other such materials shall give the utmost care and consideration to the potential harmful effects of emissions resulting from such activities. Evaluation of these sources as to the adequacy, efficiency and emission potential will be made on an individual basis by the Air Pollution Control Officer in conjunction with the Director, Division of Occupational Health, Department of Health.

5. Fugitive Particulate Matter

A person shall not cause, suffer, allow, or permit any process operation to operate that is not equipped with a fugitive particulate matter control system. A person shall not cause, suffer, allow, or permit any materials to be handled, transported, or stored; or a building, its appurtenances, or a road to be used, constructed, altered, repaired or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Public roads will not be subject to this section unless a public nuisance is created.

When fugitive particulate matter escapes from a building or equipment in such manner and amount as to cause a nuisance or to violate any regulation, the Air Pollution Control Officer may order that the building or equipment in which processing, handling and storage are done be tightly closed and ventilated in such a way that all air and gases and air or gasborne material leaving the building or equipment are treated by removal or destruction of air contaminants before discharge to the open air.

6. Asphalt Concrete Plants

A person shall not discharge or cause, suffer, allow or permit the emission of particulate matter in excess of 90 milligrams per dry standard cubic meter (0.04 grains per dry standard cubic foot) from an asphalt concrete plant constructed after April 30, 1971.

For the purposes of this subsection, an asphalt concrete plant is comprised of any combination of the following: rotary drier, screening and classifying equipment, aggregate weighing system, mixer, storage bins, conveying equipment, and transfer systems.

5-241 PROHIBITION OF NUISANCE AND ODOR

1. Nuisance

A person shall not discharge, cause, suffer, allow, or permit from any source whatsoever such quantities of air contaminants or other material which will cause injury, detriment, nuisance or annoyance to any considerable number of people or to the public or which endangers the comfort, repose, health or safety of any such persons or the public or which causes or has a natural tendency to cause injury or damage to business or property.

2. Odors

A person shall not discharge, cause, suffer, allow or permit any emissions of objectionable odors beyond the property line of a premises. An objectionable odor shall mean those odors deemed objectionable by fifteen percent or more of a sample of people exposed to them. The number of people in the said sample shall be at least 20 or, if fewer than 20 people, but greater than 4 (and providing that these persons are not from the same household) are exposed in a particular situation, 75 percent of the people exposed. The sample of

people shall be taken from among those occupying or frequenting places closest to, but beyond the property line of the source of odors. Domestic odors are exempt from this section.

3. Control of Odor from Industrial Processes

a. No person shall operate or use any device, machine, equipment or other contrivance for an industrial process which as determined by the Air Pollution Control Officer is an odoriferous process per se, unless all gases, vapors, and gas-entrained effluents from such facility are incinerated at a temperature of 871 degrees C (1600 degrees F) for a period of not less than five-tenths (0.5) second, or processed in such manner as determined by the Air Pollution Control Officer to be equally or more effective for the purpose of air pollution control.

b. Effective devices and measures shall be installed and operated in a manner such that no vent, exhaust pipe, blowoff pipe or opening of any kind shall discharge into the open air or atmosphere any odorous matter, air contaminants, dusts or any combination thereof which create odors or other nuisances.

c. Odor-producing materials shall be confined and handled in a manner such that odors produced within or outside the plant from such materials are controlled. Accumulation of odor-producing materials resulting from spillage or other means is prohibited.

d. Odor-bearing air contaminants arising from materials in process shall be confined at the point of origin so as to prevent liberation of odorous matter into the workroom and the confined air contaminants shall be treated before discharge to the atmosphere, as required in section a.

e. Whenever air contaminants escape from a building or buildings used for processing, handling or storage of materials used in the industrial processes specified in section a in such manner and amount as to cause a nuisance or to violate these regulations, the Air Pollution Control Officer shall order that said building or buildings be tightly closed and ventilated in such a way that all air contaminants are treated by incinerator or other means effective for their removal or destruction before discharge to the open air.

5-251 CONTROL OF NITROGEN OXIDES EMISSIONS

(1) No person shall discharge, or cause, allow or permit emissions of oxides of nitrogen, expressed as NO_x, from any fuel burning equipment with a heat input capacity of 250 million BTU's per hour or more in excess of:

(a) 0.36 grams per million calories heat input (0.20 pounds per million BTU) derived from gaseous fossil fuel.

(b) 0.54 grams per million caloriesheat input (0.30 pounds per million BTU) derived from liquid fossil fuel.

(c) 1.26 grams per million calories heat input (0.70 pounds per million BTU) derived from solid fossil fuel (except lignite or a fossil fuel containing 25 percent by weight, or more of coal refuse).

5-252 CONTROL OF SULFUR DIOXIDE EMISSIONS

(1) No person shall discharge, or cause, allow or permit emissions of sulfur dioxide from any fuel burning equipment with a heat input capacity of 250 million BTU's per hour or more in excess of:

(a) 1.4 grams per million calories heat input (0.80 pounds per million BTU) derived from liquid fossil fuel.

(b) 2.2 grams per million calories heat input (1.2 pounds per million BTU) derived from solid fossil fuel.

(2) This limit shall not apply to gas turbine generators.

5-253 CONTROL OF VOLATILE ORGANIC COMPOUNDS

(1) Storage of Volatile Organic Compounds

(a) No person shall place, hold or store in any above ground fixed roof tank of greater than 40,000 gallons (151,417 liters) capacity volatile organic compounds having a true vapor pressure greater than 1.52 pounds per square inch absolute (psia) (10.5 kilo Pascals) unless the tank is equipped with one of the following vapor loss control devices:

(i) An internal floating roof equipped with a closure seal to close the space between the roof edge and the tank wall, maintained free from visible holes, tears or other openings in the seal. In addition all openings shall be equipped with covers, seals, or lids kept closed at all times except when in actual use.

(ii) Other control devices of equal or greater efficiency to the above, as may be approved by the Air Pollution Control Officer.

(b) Compliance schedules. The owner or operator of any source subject to the requirements of subsection (a) above shall submit to the Secretary an acceptable compliance schedule which contains the following increments of progress and the dates of achievement of each increment:

(i) Submission to the Secretary of a final control plan for installation of the floating roof or equivalent control device.

(ii) Negotiation and signing of all necessary contracts or issuance of purchase orders.

(iii) Initiation of on-site construction or installation of control devices.

(iv) Completion of on-site construction or installation of control devices.

(v) Final compliance with subsection (a) of this section.

(vi) Any owner or operator required to submit a compliance schedule hereunder shall certify to the Secretary, within 5 days after the deadline for each increment of progress, whether or not the required increment has been met.

(c) A compliance schedule submitted under subsection (b) of this section shall assure final compliance by no later than September 1, 1980, if the control devices specified in subsection (a) (i) are to be utilized, or by no later than September 1, 1981, if the control devices specified in subsection (a) (ii) of this section are to be utilized.

(3) Bulk Gasoline Terminals

(a) No person shall operate or permit the operation of a loading rack with an average daily thruput of greater than 20,000 gallons (75,700 liters) which transfers gasoline into delivery vessels unless:

(i) Such loading rack is equipped with a vapor collection and disposal system, properly installed, in good working order, and in operation;

(ii) All displaced vapors and gases are vented to a control device which removes or recovers organic vapors and gases so that no more than 80 milligrams of volatile organic compounds per liter of gasoline loaded is emitted to the atmosphere; and

(iii) All fittings on loading connections and vapor lines are vapor tight and close automatically upon disconnection.

(b) Compliance Schedules. The owner or operator of any source subject to the requirements of subsection (a) above as of July 1, 1979, shall submit to the Secretary an acceptable compliance schedule which assures final compliance by no later than January 1, 1982.

(2) 0.54 grams per million calorie heat input (0.30 pounds per million BTU) derived from liquid fossil fuel.

(3) 1.26 grams per million calorie heat input (0.70 pounds per million BTU) derived from solid fossil fuel (except lignite or a fossil fuel containing 25 percent by weight, or more of coal refuse).

2. Control of Sulfur Dioxide Emissions

a. No person shall discharge, or cause, allow or permit emissions of sulfur dioxide from a new stationary combustion installation with a heat input capacity of 250 million BTU's or more in excess of:

(1) 1.4 grams per million calorie heat input (0.80 pounds per million BTU) derived from liquid fossil fuel.

(2) 2.2 grams per million calorie heat input (1.2 pounds per million BTU) derived from solid fossil fuel.

b. This limit shall not apply to gas turbine generators.

Subchapter III. Ambient Air Quality Standards

5-301 Scope

The ambient air quality standards contained in this subchapter are based on the national ambient air quality standards. The primary standards define levels of air quality judged adequate to protect the public health. The secondary standards define levels of air quality judged adequate to protect the public welfare, to prevent injury to animal or plant life or property, and to prevent unreasonable interference with the enjoyment of life or property.

5-302 Sulfur Oxides (Sulfur Dioxide) - Primary Ambient Air Quality Standard.

The primary ambient air quality standards for sulfur oxides measured as sulfur dioxide by the pulse fluorescent method, or by an equivalent method, are:

(a) 80 micrograms per cubic meter (ug/M^3) (0.03 p.p.m.) - annual arithmetic mean.

(b) 365 ug/M^3 (0.14 p.p.m.) - Maximum 24-hour concentration not to be exceeded more than once per year.

5-303 Sulfur Oxides (Sulfur Dioxide) - Secondary Ambient Air Quality Standard.

The secondary ambient air quality standard for sulfur oxides measured as sulfur dioxide by the pulse fluorescent method, or by an equivalent method, is 1,300 ug/M^3 (0.5 p.p.m.) maximum 3-hour concentration not to be exceeded more than once per year.

5-304 Particulate Matter (Total Suspended Particulate) - Primary Ambient Air Quality Standard.

The primary ambient air quality standards for particulate matter, measured as Total Suspended Particulate by the High Volume Air Sampling procedure, are:

(a) 75 ug/M^3 - annual geometric mean

(b) 260 ug/M^3 - maixmum 24-hour concentration not to be exceeded more than once per year.

5-305 Particulate Matter (Total Suspended Particulate) - Secondary Ambient Air Quality Standard.

The secondary ambient air quality standard for particulate matter, measured as Total Suspended Particulate by the High Volume Air Sampling procedure is 150 ug/M^3 - maximum 24-hour concentration not to be exceeded more than once per year.

5-306 Carbon Monoxide - Primary and Secondary Ambient Air Quality Standards

The primary and secondary ambient air quality standards for carbon monoxide, measured by the Nondispersive Infrared procedure, or by an equivalent method, are:

(a) 10 milligrams per cubic meter (9 p.p.m.) - maximum 8-hour concentration not to be exceeded more than once per year.

(b) 40 milligrams per cubic meter (35 p.p.m.) - maximum 1-hour concentration not to be exceeded more than once per year.

5-307 Ozone - Primary and Secondary Ambient Air Quality Standards

The primary and secondary ambient air quality standards for ozone, measured by the Chemiluminescence Test procedure, or by an equivalent method, are 235 ug/M^3 (0.12 p.p.m.). The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 235 ug/M^3 (0.12 p.p.m.) is equal to or less than one, as determined by Appendix H. of 40 CFR Part 50.

Subchapter IV. Operations and Procedures

5-401 CLASSIFICATION OF AIR CONTAMINANT SOURCES

The following sources or sources engaged in the following operations, processes or activities are classified as air contaminant sources which may cause or contribute to air pollution.

(1) Incinerators

(2) Asphalt hot-mix batching plants

(3) Electrical power generation facilities

(4) Wood products industries

(5) Mineral product industries, including mining, quarrying and crushing operations

(6) Fuel burning installations:

(a) Fossil fuel burning equipment of greater than 10 million BTU's per hour rated heat input

(b) Wood fuel burning equipment of greater than 90 H.P. rated output.

(7) Metal melting and reclamation furnaces

(8) Metal fabrication processes

(9) Surface finishing and coating operations, including application of paints, lacquers, solvents and related materials.

(10) Petroleum or petro-chemical processing or marketing.

(11) Manufacturing, processing and application of chemicals, including the processing or application of plastics, rubbers or resins.

(12) Operations involving the handling or transferring of sand or dust producing materials.

(13) Kraft pulping processes

(14) Leather tanning and finishing operations

(15) Animal byproduct processes

(16) Any source not listed above which would otherwise be subject to regulation pursuant to the Clean Air Act, as amended (42 USC 7401, et seq.).

(17) Such other sources as may be designated as air contaminant sources by the Air Pollution Control Officer on a case-by-case basis.

5-402 WRITTEN REPORTS WHEN REQUESTED

(1) All Sources:

The Air Pollution Control Officer may at any time require written reports from the person operating or responsible for any proposed or existing air contaminant source, which reports shall contain information concerning location, siting, size and height of contaminant outlets, processes employed, pertinent process and material flow, fuels used, nature and amount and time periods or durations of emissions and such other information as may be relevant to the air pollution potential of the source. These reports shall also include the results of such source testing as may be required under Section 5-404 herein.

5-403 CIRCUMVENTION

No person shall build, erect, install or use any article, machine, equipment or other contrivances, the use of which, without resulting in a reduction in the total release of air contaminants to the atmosphere, reduced or conceals an emission which otherwise would constitute a violation of these regulations.

5-404 METHODS FOR SAMPLING AND TESTING OF SOURCES

(1) Whenever the Air Pollution Control Officer has reason to believe that the emission limits of these regulations are being violated by a source, he may require the owner or operator of said source to conduct tests to determine the quantity of particulate and/or gaseous matter being emitted, which tests shall include stack tests if circumstances so demand. In the event that stack testing is required, the tests shall be performed in accordance with procedures specified in 40 CFR 60, Appendix A, or other methods approved by the Air Pollution Control Officer Testing to determine the quantity of particulate emissions from cyclones shall be performed by using the high volume sampling method, or an equivalent method approved by the Air Pollution Control Officer.

(2) Should the Air Pollution Control Officer wish to conduct tests of his own to determine compliance with the emission limits of these regulations, the owner or operator of the source to be tested shall provide at no expense to the State of Vermont, reasonable and necessary openings in stacks, vents and ducts, along with safe and easy access thereto, including a suitable power source to the point of testing.

(3) The Air Pollution Control Officer shall be supplied with such data as he may require to establish test conditions.

(4) The method, or any conditions associated with the method, of source testing required under this section shall be approved by the Air Pollution Control Officer.

5-405 REQUIRED AIR MONITORING

(1) The Air Pollution Control Officer may require the owner or operator of any air contaminant source to install, use and maintain such monitoring equipment and records, establish and maintain such records, and make such periodic emission reports as the Officer shall prescribe.

(2) The method, or any conditions associated with the method, of air monitoring required under this section shall be approved by the Air Pollution Control Officer.

5-406 REQUIRED AIR MODELING

(1) The Air Pollution Control Officer may require the owner or operator of any proposed air contaminant source subject to review pursuant to Sections 5-501 or 5-503 herein to conduct diffusion or other air quality modeling and to submit an air quality impact evaluation to demonstrate that operation of the proposed source as described to the Air Pollution Control Officer will not directly or indirectly result in a violation of any ambient air quality standard, interfere with the attainment of any ambient air quality standard, or violate any applicable prevention of significant deterioration increment (Table 2).

(2) For proposed stationary sources, the appropriate air quality modeling techniques shall be determined on a case-by-case basis in accordance with procedures established by the Air Pollution Control Officer.

(3) For proposed indirect sources, the appropriate air quality modeling technique shall be that specified in the "Guidelines for Air Quality Maintenance Planning and Analysis, Volume 9: "Evaluating Indirect Sources" (OAQPS 1.2-028R, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, September 1978, as may be revised). In unusual cases, where the need is clearly demonstrated, the Air Pollution Control Officer may, in his discretion, allow use of an alternative technique. Any request to use an alternative technique shall be submitted prior to the application for review by the proposed indirect source under these regulations, and shall be accompanied by a validation study of the alternative technique, containing air quality monitoring data and other necessary documentation, which demonstrates the greater accuracy and appropriateness of the alternate technique as applied to the proposed source, in comparison with the modeling technique specified herein.

Industrial Process Weight Standards*

TABLE I

Process Weight lbs/hr(kg/hr)	Discharge Maximum Weight lbs/hr(kg/hr)	Process Weight lbs/hr(kg/hr)	Discharge Maximum Weight lbs/hr(kg/hr)
50 -(23)	0.24 -(0.11)	3400 -(1542)	5.44 -(2.47)
100 -(45)	0.46 -(0.21)	3500 -(1588)	5.52 -(2.50)
150 -(68)	0.66 -(0.30)	3600 -(1633)	5.61 -(2.54)
200 -(91)	0.85 -(0.39)	3700 -(1678)	5.69 -(2.58)
250 -(113)	1.03 -(0.47)	3800 -(1724)	5.77 -(2.62)
300 -(136)	1.20 -(0.54)	3900 -(1769)	5.85 -(2.65)
350 -(159)	1.35 -(0.61)	4000 -(1814)	5.93 -(2.70)
400 -(181)	1.50 -(0.68)	4100 -(1860)	6.01 -(2.73)
450 -(204)	1.63 -(0.74)	4200 -(1905)	6.08 -(2.76)
500 -(227)	1.77 -(0.80)	4300 -(1950)	6.15 -(2.79)
550 -(249)	1.89 -(0.86)	4400 -(1996)	6.22 -(2.82)
600 -(272)	2.01 -(0.91)	4500 -(2041)	6.30 -(2.86)
650 -(295)	2.12 -(0.96)	4600 -(2087)	6.37 -(2.89)
700 -(318)	2.24 -(1.02)	4700 -(2132)	6.45 -(2.93)
750 -(340)	2.34 -(1.06)	4800 -(2177)	6.52 -(2.96)
800 -(363)	2.43 -(1.10)	4900 -(2223)	6.60 -(2.99)
850 -(386)	2.53 -(1.15)	5000 -(2268)	6.67 -(3.03)
900 -(408)	2.62 -(1.19)	5500 -(2495)	7.03 -(3.19)
950 -(431)	2.72 -(1.23)	6000 -(2722)	7.37 -(3.34)
1000 -(454)	2.80 -(1.27)	6500 -(2948)	7.71 -(3.50)
1100 -(499)	2.97 -(1.35)	7000 -(3175)	8.05 -(3.65)
1200 -(544)	3.12 -(1.42)	7500 -(3402)	8.39 -(3.81)
1300 -(590)	3.26 -(1.48)	8000 -(3629)	8.71 -(3.95)
1400 -(635)	3.40 -(1.54)	8500 -(3856)	9.03 -(4.10)
1500 -(680)	3.54 -(1.61)	9000 -(4082)	9.36 -(4.25)
1600 -(726)	3.66 -(1.66)	9500 -(4309)	9.67 -(4.39)
1700 -(771)	3.79 -(1.72)	10000 -(4536)	10.0 -(4.54)
1800 -(816)	3.91 -(1.77)	11000 -(4989)	10.63 -(4.82)
1900 -(862)	4.03 -(1.83)	12000 -(5443)	11.28 -(5.12)
2000 -(907)	4.14 -(1.88)	13000 -(5897)	11.89 -(5.39)
2100 -(953)	4.24 -(1.92)	14000 -(6350)	12.50 -(5.67)
2200 -(998)	4.34 -(1.97)	15000 -(6804)	13.13 -(5.96)
2300 -(1043)	4.44 -(2.01)	16000 -(7257)	13.74 -(6.23)
2400 -(1089)	4.55 -(2.06)	17000 -(7711)	14.36 -(6.51)
2500 -(1134)	4.64 -(2.10)	18000 -(8165)	14.97 -(6.79)
2600 -(1179)	4.74 -(2.15)	19000 -(8618)	15.58 -(7.07)
2700 -(1225)	4.84 -(2.20)	20000 -(9072)	16.19 -(7.34)
2800 -(1270)	4.92 -(2.23)	30000 -(13608)	22.22 -(10.08)
2900 -(1315)	5.02 -(2.28)	40000 -(18144)	28.3 -(12.84)
3000 -(1361)	5.10 -(2.31)	50000 -(22680)	34.3 -(15.56)
3100 -(1406)	5.18 -(2.35)	60000 -(27215)	40.0 -(18.14)
3200 -(1451)	5.27 -(2.39)	or More	
3300 -(1497)	5.36 -(2.43)		

*In the case of any conflict between the English and Metric units set out in this table, the English units shall prevail.

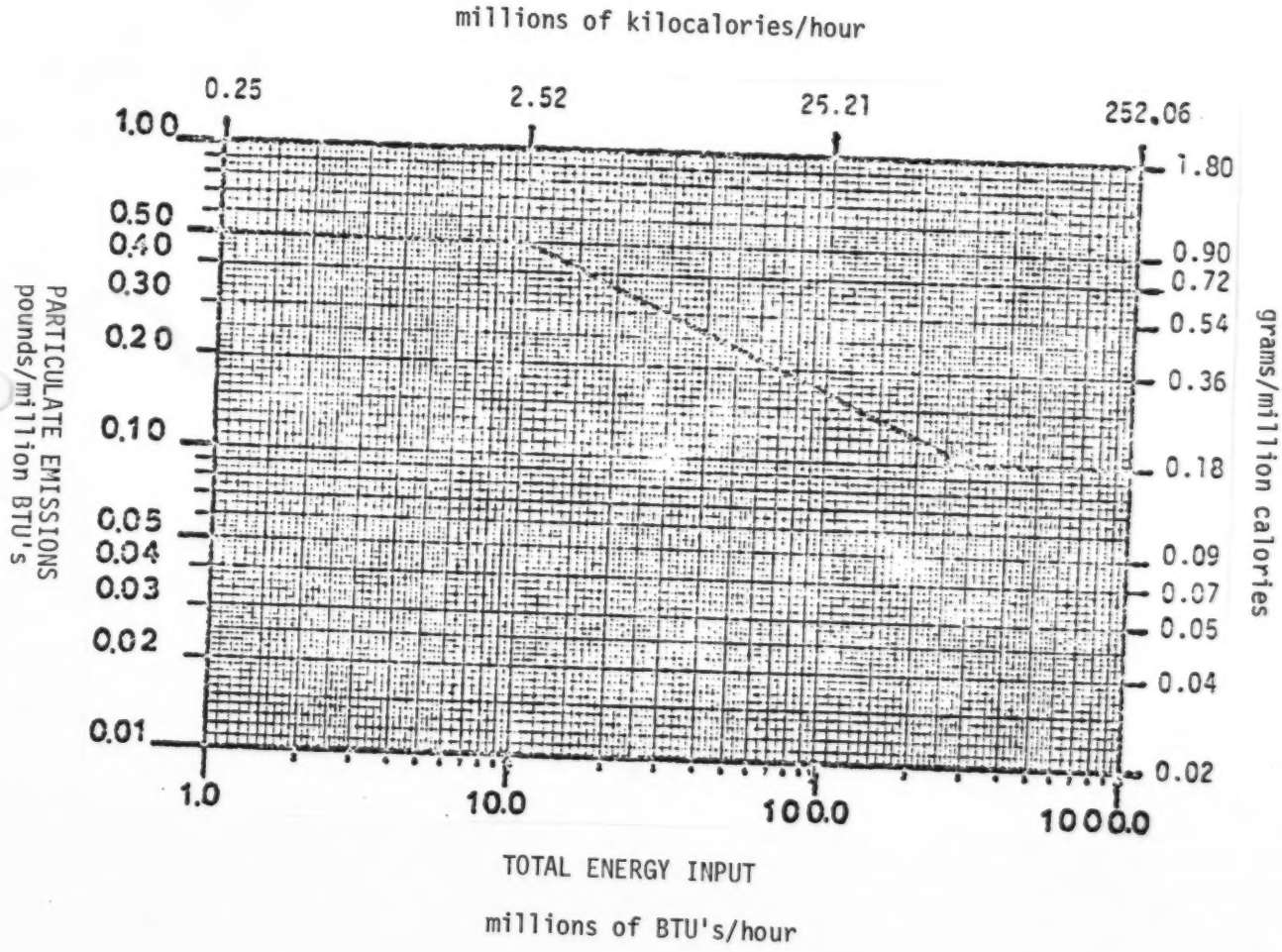
TABLE 2

Prevention of Significant Deterioration (PSD) Increments

Air Contaminant/ Ambient Air Quality Standard	Maximum Allowable Increment Micrograms Per Cubic Meter		
	Class I	Class II	Class III
Suspended Particulates:			
Annual Standard (geometric mean)	5	19	37
24-hr Standard (maximum)	10	37	75
Sulfur Dioxide:			
Annual Standard (arithmetic mean)	2	20	40
24-hr Standard (maximum)	5	91	182
3-hr Standard (maximum)	25	512	700

At present all attainment areas of the State are Class II, except for the Lye Brook Wilderness Area which is Class I. Increments for Class III areas are shown in the event areas are reclassified in the future to Class III.

Figure 1 - FUEL BURNING EQUIPMENT*



*In the case of any conflict between the English and Metric units set out in this chart, the English units shall prevail.

SUBCHAPTER V. REVIEW OF NEW AIR CONTAMINANT SOURCES

5-501 REVIEW OF CONSTRUCTION OR MODIFICATION OF AIR CONTAMINANT SOURCES

(1) No person shall cause, suffer, allow or permit the new construction, installation or modification of any air contaminant source designated under Section 5-401 herein, unless he first provides written notice thereof to the Secretary and the Secretary issues an order approving said construction, installation or modification as provided herein.

(2) Within 15 days of his receipt of such notice, the Secretary may require the submission of such plans, specifications, analyses and other information as he deems necessary in order to determine whether the proposed construction, installation or modification will comply with these regulations.

(4) For the purposes of review of major stationary sources, indirect sources subject to review pursuant to Section 5-503 herein, or other sources in the discretion of the Secretary, "other information" required pursuant to this section shall include public comments submitted according to the following procedures:

(a) Within 30 days of the receipt of complete plans, specifications, analyses, or similar information from the air contaminant source, the Secretary shall make available for public inspection in at least one location in the locality affected, the information hereinabove and the Agency's analysis of the effect of the construction or modification on the ambient air quality, including his proposed approval or disapproval.

(b) The Secretary shall provide timely notice by advertisement in local newspaper(s) of the location of the information and analysis above and of the opportunity for public hearing specified below.

(c) For a period of at least 30 days after the information and analysis have been made available for public inspection, the Secretary shall accept public comments, orally or in writing, from all interested persons on the proposed construction or modification, and shall also provide opportunity for public hearing thereon, if requested in writing at least 5 days prior to the close of the public comment period.

(d) Within 10 days of the close of the public comment period, including the public hearing, if any, and after full consideration of all comments and information submitted, the Secretary shall issue an order as required in subsection (3) above.

(5) If allowable emission increases from any source subject to this section will cause or contribute to a violation of any applicable ambient air quality standard or cause or contribute to a violation of any applicable prevention of significant deterioration increment (Table 2), or will impact on any Class I area, such source will be treated as a major stationary source for the pur-

poses of its review under these regulations.

(6) Nothing in this section or no action taken under this section shall be construed as relieving any person from compliance with any emission stanard prescribed in these regulations or with any other provision of law.

5-502 MAJOR STATIONARY SOURCES

(1) Applicability

(a) This section applies to all major stationary sources which are constructed subsequent to July 1, 1979 and are subject to review under Section 5-501 herein.

(b) Where a source is constructed or modified in increments which individually are not subject to review under this section and which are not a part of a program of construction or modification in planned incremental phases previously approved by the Secretary, all such increments commenced after the latest approval issued by the Secretary under this section shall be added together for determining the applicability of this section.

(2) Prohibition

No person shall initiate construction of any major stationary source until the applicable requirements of this section have been complied with and an order approving construction has been issued in accordance with Section 5-501 herein.

(3) Most stringent emission rate

(a) Each major stationary source shall apply control technology adequate to achieve the most stringent emission rate with respect to those air contaminants as to which the source is considered subject to this section.

(b) The "most stringent emission rate (MSER)" means that rate of emissions which the Secretary, on a case-by-case basis, determines is achievable for a source based on the lowest emission rate achieved in practice by such category of source, unless the source demonstrates it cannot achieve such a rate due to economic impacts and costs. Costs of achievement of MSER will be accorded less weight for sources locating in nonattainment areas than for sources locating in attainment areas for the applicable air contaminants. In no event shall application of MSER result in emissions of any contaminants in excess of any emission standard contained in these regulations.

(c) If the Secretary determines that imposition of an emission standard is infeasible, a design, equipment, work practice or operational standard, or combination thereof, may be prescribed instead as constituting MSER.

(d) Any source subject to this section shall submit infor-

mation at the time it applies for approval to construct to establish that the most stringent emission rate will be achieved.

(4) Air quality impact evaluation

(a) A source subject to this section with respect to any air contaminant, other than volatile organic compounds, shall submit to the Secretary an air quality impact evaluation at the time it applies for approval to construct under Section 5-501 herein.

(b) The evaluation shall demonstrate that the increase in allowable emissions will not cause violations of any applicable ambient air quality standard in any area for suspended particulates, sulfur dioxide, nitrogen oxides or carbon monoxide, and will not significantly contribute to a violation of any applicable ambient air quality standard in a nonattainment area for the above air contaminants. A source will be considered to significantly contribute to a violation of any applicable ambient air quality standard for the above air contaminants if the increase in the allowable emissions from the source will cause any increase in ambient concentrations of the above air contaminants in the nonattainment area in excess of any of the levels of significant impact shown in Table 3 herein. If a source will cause or significantly contribute to such a violation, the evaluation shall demonstrate that the source will comply with the requirements of paragraph (6) herein.

(c) The evaluation shall demonstrate that, as of the e in source' start-up date the increase in allowble emissions, in conjunction with all other applicable emissions increases or reductions, will not cause or contribute to any increase in ambient concentrations exceeding the remaining available prevention of significant deterioration (PSD) increment for the specified air contaminants, as determined by the Secretary. A demonstration under this paragraph is not required if a source is modified, but there is no net increase in the source's allowable emissions of the air contaminants specified in Table 2.

(d) Any air quality impact evaluation or modeling required by this section shall be prepared in accordance with procedures acceptable to the Secretary and with Section 5-406 of these regulations. The evaluation shall exclude the effect of that portion of the height of any stack which exceeds good engineerig practice and the effect of any other dispersion technique.

(6) Emission reductions

(a) The Secretary shall not issue an order approving construction of any source subject to this section if the source is unable to demonstrate, as required under paragraph (4), that the increase in allowable emissions from it will not cause or significantly contribute to a violation of any applicabl ambient air quality standard unless, prior to issuance of any such order:

(i) the source owner or operator secures legally binding offsetting emission reductions, not otherwise to be utilized as part of the State's attainment strategies, of the air contaminant causing or contributing to such a violation from existing sources located in or impacting on the same area (whether or not under the same ownership) such as to provide a new emission reduction acceptable to the Secretary, and

(ii) the source owner or operator certifies that all existing sources of the source owner located in the State are in compliance with all applicable rules or are meeting all steps of any compliance schedules contained in any administrative orders or court decrees.

(b) The Secretary shall not issue an order approving construction of any sorce subject to this section with respect to the contaminant volatile organic compounds unless, prior to issuance of any such order:

(i) the source owner or operator secures legally binding offsetting emission reductions, not otherwise to be utilized as part of the State's attainment stragegies, of volatile organic compounds from existing sorces located in the State such as to provide a net emission reduction acceptable to the Secretary, or

(ii) the source owner or operator demonstrates that he made his best efforts to secure sufficient emission offsets and that such efforts were unsuccessful.

(c) Emission reductions to levels below the applicable emission standards contained in these regulations may be reserved for future growth and utilized in aplications under this section to satisfy the requirements of paragraphs (6)(a) and (b) above, with the approval of the Secretary, provided that:

(i) such emission reductions shall be permanent reductions in actual emissions, and

(ii) only emission reductions achieved after August 7, 1977, or within five years previous to the date of any application under this section, whichever is more recent, may be utilized.

(d) Incinerators designed or operated primarily for the purpose of producing heat o power from municipal solid waste may be exempted by the Secretary from paragraph (6)(a)(i) above, if the source owner or operator demonstrates that:

(i) he made his best efforts to secure emission offsets and that such efforts were unsuccessful,

(ii) he has secured all available emission offsets, and

(iii) he will continue to seek the necessary emission offsets.

(7) Ambient air quality monitoring

A source required to submit an air quality impact evaluation in accordance with paragraph (4) herein shall include in such evaluation an analysis of ambient air monitoring data for any applicable contaminants to be emitted by it which may impact on any attainment areas. Ambient monitoring data shall be based on sampling conducted for a time period of up to one year immediatelly preceding submission of any application for approval to construct such a source. Ambient monitoring data collected for a time period of less than one year or for a time period other than immediately preceding submission of any such application may be acceptable if such data is adequate for determining whether the source will cause a violation of any applicable ambient air quality standard or consume more than the remaining available PSD increment.

SUBCHAPTER VII. MOTOR VEHICLE EMISSIONS

5-701 REMOVAL OF CONTROL DEVICES

No person shall remove, alter or otherwise render inoperative, the exhaust emission control system, the evaporative conrol system, or crankcase ventilation, or any other air pollution control device which has been installed as a requirement of the Federal or State laws or regulations

5-702 EXCESSIVE SMOKE EMISSIONS FROM MOTOR VEHICLES

No person shall cause, suffer, allow, or permit excessive emissions of visible air contaminants, other than water, from a motor vehicle for longer than five (5) consecutive seconds.

5-801 EFFECTIVE DATE

The effective date of regulations herein to prevent significant deterioration of air quality with respect to any air contaminant shall be the date on which an applicable implementation plan for any area pursuant to Sections 110 and 160-169 of the Clean Air Act, as amended (42 U.S.C. 7401, et seq.) is approved by the U.S. Environmental Protection Agency.

TABLE 3

Levels of Significant Impact for Nonattainment Areas

Air Contaminant	Averaging Time				
	Annual	24-Hour	8-Hour	3-Hour	1-Hour
Sulfur Dioxide	1.0 ug/m3	5.0 ug/m3		25 ug/m3	
Suspended particulates	1.0 ug/m3	5.0 ug/m3			
Nitrogen dioxide	1.0 ug/m3				
Carbon monoxide			0.5 mg/m3		2 mg/m3